

COMMITTEE ON LEGISLATIVE RESEARCH  
OVERSIGHT DIVISION

**FISCAL NOTE**

L.R. No.: 2848-10  
Bill No.: HCS for SS for SCS for SBs 670 & 684  
Subject: Elderly; Nursing and Boarding Homes; Health Care; Health Dept.; Medical  
Procedures and Personnel  
Type: #Corrected  
Date: May 8, 2002  
# Corrected error on Fiscal Summary

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**FISCAL SUMMARY**

ESTIMATED NET EFFECT ON STATE FUNDS			
FUND AFFECTED	FY 2003	FY 2004	FY 2005
General Revenue	(Unknown exceeding \$440,592)#	(Unknown exceeding \$479,756)#	(Unknown exceeding \$485,829)#
<b>Total Estimated Net Effect on <u>All</u> State Funds</b>	<b>(Unknown exceeding \$440,592)#</b>	<b>(Unknown exceeding \$479,756)#</b>	<b>(Unknown exceeding \$485,829)#</b>

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2003	FY 2004	FY 2005
<b>Total Estimated Net Effect on <u>All</u> Federal Funds*</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

\* Revenues and expenditures Unknown exceeding \$100,000 annually and net to \$0.

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2003	FY 2004	FY 2005
<b>Local Government</b>	<b>(Exceeds \$100,000)</b>	<b>\$0</b>	<b>\$0</b>

Numbers within parentheses: ( ) indicate costs or losses.

This fiscal note contains 16 pages.

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## FISCAL ANALYSIS

### ASSUMPTION

Officials from the **Department of Labor and Industrial Relations, Missouri Health Facilities Review Committee, Department of Public Safety - Missouri Highway Patrol, Office of State Courts Administrator, Missouri Consolidated Health Care Plan** and **Missouri House of Representatives** assume the proposed legislation will have no fiscal impact on their organizations.

Officials from the **Office of State Public Defender (SPD)** stated that for purposes of the proposed legislation, the SPD has assumed that existing staff could provide representation for those cases arising where indigent persons were charged with failure to report elder abuse, or abusing or neglecting a resident of a facility or abusing or neglecting an eligible adult not residing in a facility, or failing to disclose criminal history on an application to work in an elder facility. The SPD further assumes that existing staff could provide representation for indigent persons charged with having sexual contact with a resident or client of a facility or disclosing an unannounced inspection or diverting funds from an elderly person or falsifying delivery service documents to an elderly person. However, passage of more than one bill increasing penalties on existing crimes or creating new crimes would require the SPD system to request increased appropriations to cover the cumulative cost of representing indigent persons in the now more serious cases or in the new additional cases.

Officials from the **Department of Elementary and Secondary Education (DES)** stated the proposal would require, after September 1, 2004, successful completion of a First Aid/CPR course prior to obtaining a full certificate of license to teach.

The fiscal impact would be negligible; DES would add this requirement to its printed requirements for certification. The big impact would be on teachers who will incur out-of-pocket costs to take the course.

Officials from the **Office of the Secretary of State (SOS)** state this bill makes major changes designed to protect the elderly from abuse and neglect and adds requirements to obtain a license to teach. The Department of Health and Senior Services and the State Board of Education will promulgate rules to implement this bill. These rules will be published in both the *Missouri Register* and the *Code of State Regulations*. Based on experience with other divisions, the rules, regulations and forms issued by the Department of Health and Senior Services and the State Board of Education could require as many as 72 pages in the *Code of State Regulations*. For any given rule, roughly one-half again as many pages are published in the *Missouri Register* as are published in the Code because cost statements, fiscal notes and notices are not published in the Code. The estimated cost of a page in the *Missouri Register* is \$23.00. The estimated cost of a page in the *Code of State Regulations* is ASSUMPTION (continued)

\$27.00. The actual costs could be more or less than the numbers given. The fiscal impact of this legislation in future years is unknown and depends upon the frequency and length of rules filed, amended, rescinded and withdrawn. The SOS estimates the cost of this legislation to be \$4,428 [(72 pp x \$27) + (108 pp x \$23)].

**Oversight** assumes the SOS could absorb the costs of printing and distributing regulations related to this proposal. If multiple bills pass which require the printing and distribution of regulations at substantial costs, the SOS could request funding through the appropriation process. Any decisions to raise fees to defray costs would likely be made in subsequent fiscal years.

Officials from the **Department of Corrections (DOC)** did not respond to our request for a statement of fiscal impact. However, in response to similar legislation, the DOC stated that currently the DOC cannot predict the number of new commitments which may result from the creation of the offenses(s) outlined in this proposal. An increase in commitments depends on the utilization by prosecutors and the actual sentences imposed by the court. Most D felons do not serve prison time.

If additional persons are sentenced to the custody of the DOC due to the provisions of this legislation, the DOC will incur a corresponding increase in operational cost either through incarceration (FY 01 average of \$35.78 per inmate, per day or an annual cost of \$13,060 per inmate) or through supervision provided by the Board of Probation and Parole (FY 01 average of \$3.34 per offender, per day or an annual cost of \$1,219 per offender).

Supervision by the DOC through probation or incarceration would result in additional unknown costs to the department. Eight (8) persons would have to be incarcerated per fiscal year to exceed \$100,000 annually. Due to the narrow scope of this new crime, it is assumed the impact would be less than \$100,000 per year for the DOC.

Officials from the **Office of Attorney General (AGO)** did not respond to our request for a statement of fiscal impact. However, in response to similar legislation, the AGO stated costs associated with the proposed legislation can be absorbed within existing resources.

Officials from the **Department of Mental Health (DMH)** did not respond to our request for a statement of fiscal impact. However, in response to similar legislation, the DMH assumed the proposal would have no fiscal impact on their organization.

Officials from the **Office of Prosecution Services (OPS)** did not respond to our request for a statement of fiscal impact. However, in response to similar legislation proposed during the current ASSUMPTION (continued)

session, the OPS deferred to the Cole County Prosecuting Attorney's Office to provide a response for this proposal. Officials from the **Cole County Prosecuting Attorney's Office**

**(CCPAO)** stated that this proposal is a complete re-write of the existing laws in this subject area. The proposal affects the stealing, assault, and abuse statutes. This will require the local prosecuting attorney offices to re-write forms and instructions related to elder abuse. This will also require an update to the computer network being installed in the prosecutors offices statewide. Although the CCPAO could not give a precise estimate of these costs, the costs are expected to exceed \$100,000 in the first year alone.

**Oversight** will present a cost of over \$100,000 for FY 03 for the various prosecuting attorneys statewide. This cost will be reflected in local government funds for fiscal note purposes.

Officials from the **Department of Highways and Transportation, Missouri Senate, Missouri Department of Conservation, Department of Economic Development - Professional Registration** and **Department of Insurance** did not respond to our request for a statement of fiscal impact.

Officials from the **Department of Health and Senior Services (DOH)** provided the following assumptions related to the proposed legislation:

Although the DOH inspection process will need to be expanded to ensure facilities comply with the requirements to provide immunizations to residents, the DOH believes the affect on workload would be insignificant and can be handled by existing staff.

In State Fiscal Year 01, of the total 7,512 complaints and facility self-reports, the DOH received 500 reports involving imminent harm. Department personnel were able to commence on-site investigations on 87% or 437 of the reported incidents within 24 hours. However, due to an insufficient number of staff, the department was unable to commence on-site investigations on 13% or 63 reported incidents within 24 hours.

To ensure DOH is able to comply with the requirement to commence on-site investigations on all reported incidents of imminent harm within 24 hours, the department will need **two additional Facility Adv Nurse II positions** who will conduct all phases of the on-site complaint investigation.

The proposed legislation allows for the department to authorize units of in-home services provider nurse hours to assist or aid the client's case manager in the investigation of suspected abuse/neglect of in-home service clients. The division assumes for the purposes of this fiscal note, references to in-home services provider nurses are registered nurses licensed pursuant to chapter 335, RSMo. ASSUMPTION (continued)

In FY01, the division completed 12,733 investigations of hotline reports and the division estimates that there will be 14,039 investigations in FY03. In FY00, 9.9% of the hotline reports were made by in-home provider agencies. The division estimates that 9.9% (1,390) of the 14,039 hotline investigations would be completed on behalf of in-home services clients reported by the in-home services providers. The division would utilize the in-home services provider

nurse for assistance with these investigations. It is estimated that the nurse visit portion would require approximately 4 hours or units.

Of the 54,038 in-home services clients, 13.58% are non Medicaid clients. Therefore, the Division of Aging estimates an additional 1,390 authorized RN units will cost approximately \$28,579 ( $1,390 \times 0.1358 \times 4 \text{ hours} \times \$37.85 \text{ per unit}$ ). It is assumed by the division that the balance of the costs for additional nurse visits would for Medicaid eligible clients and should be included in the fiscal note response from the Division of Medical Services.

**187.030. 1** Requires the department to promptly refer all suspected cases of elder abuse to appropriate law enforcement agencies and determine the need for adult protective services. The department assumes the prosecutors' office and law enforcement agencies will determine the fiscal impact associated with additional referrals resulting from the language requiring the division to refer all cases of "suspected" elder abuse.

There were 12,733 investigations completed in FY01; 56.4% (7,181 cases) have investigative findings of reason to believe and 18.6% (2,368 cases) have findings in which the allegations were suspected to have occurred.

Although the previous law requires that all "substantiated cases" be referred to law enforcement or the prosecutors, current policy (Policy 1703.30) requires joint-investigation with law enforcement under certain conditions. The department assumes that the policy meets the legislative intent of the proposal and would require no change in operation.

Other circumstances which suggest that the worker may need to involve law enforcement prior to a face-to-face visit with the reported adult include: to obtain background information about subjects in the report (e.g. past law enforcement involvement, potential threat to the worker, reported adult, etc.); the report indicates an unrelated serious crime may have been committed; there is reason to believe the alleged perpetrator will flee if you are not accompanied by law enforcement; notification of law enforcement is needed to preserve the peace; it is believed that law enforcement may have relevant information about the situation (for example a past involvement in disputes, a party having been previously been jailed, etc.)" Division staff are required to "cooperate with law enforcement during the ASSUMPTION (continued)

investigation as requested. The degree of staff involvement in the gathering of evidence shall be at the discretion of the law enforcement agency."

**The division assumes that the policy as described meets the legislative intent of the proposal and would require no change in operation.**

**187.030. 2** Requires the department and law enforcement agencies to require training and

cross-training of personnel regarding the proper handling of cases involving elder abuse and cooperatively develop a checklist for use by department and law enforcement personnel to follow when investigating possible elder abuse.

The DOH assumes the intent of the sponsor is that DOH staff and law enforcement officials statewide will require training on the proper handling of cases involving elder abuse.

There will be a window of time in which the state will have to bring 800+ division of senior services (formerly division of aging, home and community services) and division of health standards licensure staff (formerly division of aging, institutional services) and approximately 29,000 law enforcement officials (representing over 1,200 law enforcement agencies) into compliance with the training requirements of the legislation.

The law enforcement agencies will absorb the cost of training law enforcement officials. Once existing law enforcement officers receive the training, the curriculum will be incorporated into the required training for state certification in Missouri. There are 18 law enforcement training academies located throughout the state which offer the required 470 hours of training for all law enforcement officials to become certified.

The DOH will need **one Social Services Manager B1** position to oversee the administrative responsibilities outlined in the bill. The administrator will work with the Highway Patrol, Sheriff's Association, Law Enforcement Training Academies, and other such agencies and associations to fulfill the requirements of joint training, developing accurate curriculum including the mandated checklist to ensure thorough investigations of elder abuse cases and under 660.252 a proficiency exam for use with in-home provider agencies for new applicants. Once the proficiency exam and the law enforcement curriculum has been developed, the administrator will act as the division liaison for law enforcement the over 1,200 law enforcement agencies to ensure that elder abuse training is accurate and revisions are made as necessary in accordance with state laws.

#### ASSUMPTION (continued)

The department will conduct training for 800+ existing employees within the department in six to eight sessions across the state (depending on attendance by law enforcement personnel). The DOH estimates that 16 hours of training across three days will be sufficient, requiring two overnights for approximately 40% of the staff. All staff will require meal allowances and some travel reimbursement. Anticipating maximum carpool and state cars usage, mileage is based on an average of 75 miles per car per round trip. The department estimates the cost of training as follows (no cost for "trainers" included):

Total DA Staff/Personnel to be trained	800
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Approximate number requiring two overnight accommodations (40%)	320
Hotel Accommodations: \$65.00 per overnight two nights (320 x \$65 x 2)	\$41,600
Meal Allowance: \$23.00 per day; two days (800 x \$23 x 2)	\$46,000
Approximate Mileage: (1 car per 3 employees = 800/3 = 267 cars)	
75 average miles round-trip per car (267 x 75 x .315/mile)	<u>\$6,308</u>
<b>Total Estimated Cost of Training DA Staff</b>	<b><u>\$93,908</u></b>

**Oversight** assumes that training would be held at various sites around the state. Oversight assumes total costs \$51,327.

**187.050** adapts current language regarding misappropriation of funds and property and falsified service delivery documents and extends the protection from in-home services clients and to all eligible adults. Expands the mandate and authority of the division to investigate all allegations of falsification for any type of service delivery document for any eligible adult. Requires all reports be forwarded to law enforcement. Expands the mandate and authority of the division to investigate all allegations of misappropriation of funds or property perpetrated upon all eligible adults by anyone. Extends the criminal penalty from in-home agencies/employees to all perpetrators. Expands the requirement for 5-day written notice to all reporters.

The department currently refers investigations of allegations of misappropriation/falsification of service delivery documents, other than for in-home services, to the appropriate regulatory agencies for investigation. The department assumes the current policy meets the basic intent of the legislation and therefore, there will be **no fiscal impact**. If this assumption is not correct and the department is to investigate all types of allegations regarding falsification of service delivery documents to any eligible adult, then there will be an **indeterminate fiscal impact**.

**187.080** adapts current language and contains some new language governing the EDL process. The DOH anticipates **no significant fiscal impact**.  
ASSUMPTION (continued)

**187.084** adapts language from current statute governing requirements for criminal background checks. The DOH anticipates **no fiscal impact**.

**187.087** adapts language regarding confidentiality of reports. New subsection requires that copies of reports resulting in employees being placed on the disqualification list be provided to the Division of Employment Security within the Department of Labor and Industrial Relations upon request. The division believes current resources are sufficient to allow for provision of copies of reports to the Division of Employment Security. The DOH anticipates **no significant fiscal impact**.

**187.102** requires department staff to cooperate with the departments of Mental Health and

Social Services in the investigation of reports of elder abuse when appropriate. This is currently required by division policy. The department anticipates **no significant fiscal impact**.

**198.074** Although the DOH inspection process will need to be expanded to ensure facility compliance with requirement to provide immunizations to residents, we believe the effect on workload will be minimal and can be handled by existing staff.

**660.252** requires Medicaid Participation Agreements contain a requirement for training on elder abuse. Although the impact of this requirement will be calculated by the Department of Social Services, Division of Medical Services, current training requirements are mandated for all contracted in-home services provider agencies in accordance with 13 CSR 15-7.021 (19). Included in required training topics is recognizing and reporting abuse, neglect, and/or exploitation of the elderly or disabled clients. The cost of staff providing training upon request as an in-service for provider agencies will be absorbed by the department. **The department anticipates no significant fiscal impact.**

**The following information relates to how the legislation would affect program activities in the Center for Health Information Management and Epidemiology (CHIME).**

This will require **one Research Analyst III**. 1/2 FTE for the Bureau of Health Resources Statistics - This person will pull required data from Oracle Database within the Health Licensure Unit. Analyze data using SAS or other computer language, output required data into a web usable form and reformat data to be published on the Department's web site. The other 1/2 FTE be required to review death certificates for potential elderly abuse / neglect. The analyst will also be required to develop SAS computer programs to produce reports detailing the deaths of persons over the age of 65.

The DOH officials also stated the proposed legislation may have a fiscal impact on local law enforcement agencies and prosecutors as they may need additional staff and/or resources for the ASSUMPTION (continued)

review, investigation and prosecution of elder abuse, neglect, misappropriation of funds or property and falsification of service delivery documents cases referred to their agencies or offices for action by the DOH.

Officials from the **Department of Social Services - Division of Medical Services (DMS)** provided the following assumptions related to the proposed legislation:

**Section 187.028.1. - In-home Provider Nurse Assist with Suspected Abuse/Neglect Investigation:**

Department of Health and Senior Services (DOH) may authorize units for the in-home provider



nurse  
to assist in a suspected abuse or neglect investigation. If units are authorized for the in-home  
provider  
nurse and the investigation was of a Medicaid client, the authorized units would be paid by  
Medicaid.

For the in-home provider nurse to be reimbursed for services performed during the investigation  
the  
following assumptions were made: (1) The duties performed by the nurse must be part of the  
duties  
outlined in the Nurse Practice Act. (2) The Centers for Medicare and Medicaid Services (CMS)  
must  
approve the services performed by the nurse during the investigation as medically necessary.  
Unless  
the CMS approved the services, federal matching funds would not be available for these services.  
(3)  
the investigational nurse visits would be in addition to the services currently being funded and  
any  
increase in services would require additional funding which would be subject to appropriation.

The Division of Senior Services estimates that 1,201 investigations will be made on behalf of  
Medicaid clients with the assistance of the in-home service nurse. Each investigation will require  
4 units of service at a cost of \$37.85/unit. **Annual cost - \$181,831 (1,201 x (4 x \$37.85)).**

For purposes of this fiscal note the in-home provider nurse is assumed to be a registered nurse  
licensed pursuant to chapter 335, RSMo. It is also assumed that federal matching funds would  
not be available. This is based on the current climate of the CMS. The current CMS management  
does not look favorably upon our current authorized nurse visit included in the current personal  
care program.

#### **Sections 198.082 – Nurse Aide Training:**

The proposed legislation will not have a fiscal impact on the DMS. The reimbursement for the  
training  
is not changed. Payment for the training is made after the nurse aide has successfully completed  
the training course and their name has been added to the Missouri Division of Aging Nurse  
Assistant  
Register. The DMS may reimburse the nursing facilities earlier since the training must begin  
within 6

ASSUMPTION (continued)

months of employment and the on-the-job training component must be completed within 6

months  
of employment.

**Section 198.074 - Immunizations for Nursing Home Residents:**

The DMS is assuming the costs of the immunization requirements will be covered through the Medicaid pharmacy program and not included in the nursing facility per diem rate. It can not be determined the number of residents that would be affected by the new legislation as some residents may not want the service or are receiving these services from their physician. Medicare Part B covers both immunizations. The calculation was made using all residents 65 years of age or older without Medicare Part B coverage.

FISCAL IMPACT - State Government

FY 2003  
(10 Mo.)

FY 2004

FY 2005

**GENERAL REVENUE**

Costs - Department of Corrections

HW-C:LR:OD (12/01)

<u>FISCAL IMPACT - State Government</u>	FY 2003 (10 Mo.)	FY 2004	FY 2005
Additional Commitments or Parole Supervision	(Unknown less than \$100,000)	(Unknown less than \$100,000)	(Unknown less than \$100,000)
Total <u>Costs</u> - Department of Corrections	(Unknown less than \$100,000)	(Unknown less than \$100,000)	(Unknown less than \$100,000)
<u>Costs - Department of Social Services</u>			
In-Home Nurse Assist Visits	(\$151,526)	(\$189,104)	(\$196,668)
Immunizations for NF Residents	(Unknown less than \$26,541)	(Unknown less than \$27,602)	(Unknown less than \$28,706)
Provider Agreements	(Unknown less than \$40,000)	(Unknown less than \$40,000)	(Unknown less than \$40,000)
	(Unknown exceeding \$151,526)	(Unknown exceeding \$189,104)	(Unknown exceeding \$196,668)
Total <u>Costs</u> - Department of Social Services	(Unknown exceeding \$151,526)	(Unknown exceeding \$189,104)	(Unknown exceeding \$196,668)
<u>Costs - Department of Health and Senior Services</u>			
Personal Service Costs (4 FTE)	(\$135,669)	(\$166,872)	(\$171,044)
Fringe Benefits	(\$48,854)	(\$60,091)	(\$61,593)
Equipment and Expense	(\$61,770)	(\$54,878)	(\$56,524)
Training Costs	(\$42,773)	(\$8,811)	\$0
Total <u>Cost</u> - Department of Health and Senior Services	(\$289,066)	(\$290,652)	(\$289,161)
<b>ESTIMATED NET EFFECT ON GENERAL REVENUE FUND</b>	<b>(Unknown exceeding \$440,592)</b>	<b>(Unknown exceeding \$479,756)</b>	<b>(Unknown exceeding \$485,829)</b>

## **FEDERAL FUNDS**

<u>Income - Department of Social Services</u>			
Medicaid Reimbursements - Immunizations for NF Residents	Unknown less than \$41,916	Unknown less than \$43,593	Unknown less than \$45,337

<u>FISCAL IMPACT - State Government</u>	FY 2003 (10 Mo.)	FY 2004	FY 2005
Medicaid Reimbursements - Provider Agreements	<u>Unknown less than \$60,000</u>	<u>Unknown less than \$60,000</u>	<u>Unknown less than \$60,000</u>
Total <u>Income</u> - Department of Social Services	<u>Unknown less than \$101,916</u>	<u>Unknown less than \$103,593</u>	<u>Unknown less than \$105,337</u>
<u>Costs - Department of Social Services</u>			
Immunizations for NF Residents	(Unknown less than \$41,916)	(Unknown less than \$43,593)	(Unknown less than \$45,337)
Provider Agreements	<u>(Unknown less than \$60,000)</u>	<u>(Unknown less than \$60,000)</u>	<u>(Unknown less than \$60,000)</u>
Total <u>Costs</u> - Department of Social Services	<u>(Unknown less than \$101,916)</u>	<u>(Unknown less than \$103,593)</u>	<u>(Unknown less than \$105,337)</u>

**ESTIMATED NET EFFECT ON  
FEDERAL FUNDS\***

\$0                      \$0                      \$0

**\* Revenues and expenditures Unknown exceeding \$100,000 annually and net to \$0.**

<u>FISCAL IMPACT - Local Government</u>	FY 2003 (10 Mo.)	FY 2004	FY 2005
<b>LOCAL GOVERNMENT FUNDS</b>			
<u>Costs - Prosecuting Attorneys</u>			
Upgrades to Computer Systems, Forms and Instruction Changes	Exceeds <u>(\$100,000)</u>	\$0	\$0
<b>ESTIMATED EFFECT ON LOCAL GOVERNMENT FUNDS</b>	<b>Exceeds <u>(\$100,000)</u></b>	<b><u>\$0</u></b>	<b><u>\$0</u></b>

FISCAL IMPACT - Small Business

A fiscal impact to small business would be expected due to the requirements of this bill regarding the implementation of background checks on employees and training that must be provided to employees within six months of employment. The potential cost to small businesses is unknown.

DESCRIPTION

HW-C:LR:OD (12/01)

This act makes a number of changes designed to protect the elderly.

Definitions for elder care terms are modified (Section 187.010). Certain persons are required to report suspected abuse or neglect of facility residents. Anyone failing to make a report or filing a false report is guilty of a Class A misdemeanor. Immunity is given to reporters, unless they act negligently, recklessly, or in bad faith. The Department of Health and Senior Services must maintain statistics on all deaths over age sixty-five (Section 187.020).

If a report is made about a long-term care resident, certain information must be included in the report. Within 24 hours, the Department of Health and Senior Services must initiate an investigation and notify the resident's family. If a report involves imminent harm, the Department must start an on-site investigation within 24 hours. If an investigation indicates possible abuse or neglect, the resident may be removed from the facility. Reports are confidential, but information may be released to certain persons. Within five working days, the person making the report must be notified of its progress. Harassment of reporters is prohibited. Any person who knowingly abuses or neglects a resident of a facility is guilty of a Class D felony and will be placed on the employee disqualification list (Section 187.024).

Section 187.028 contains provisions similar to Section 187.024, but for eligible adults not residing in a facility and in-home services clients. If a report is made by a client's physician, then the Department must maintain contact with the physician regarding the investigation. When a report is received, the client's case manager and the department nurse must be notified and the case manager must investigate. The nurse may participate in the investigation as well. If an in-home services employee is found guilty and the provider fails to report it, then the provider may be subject to penalties of \$1000 per violation. The Department must require providers to verify compliance with program standards (Section 187.028).

The Department must investigate reports by using the procedures established in Sections 660.250 to 660.295 and must refer all suspected cases to law enforcement. The Department and law enforcement must require elder abuse training and must develop an investigation checklist (Section 187.030). Immunity from liability is provided to reporters, unless they act in bad faith (Section 187.034).

#### DESCRIPTION (continued)

Section 187.050 contains provisions similar to 187.024, but for the misappropriation of property or falsification of documents of an in-home services client. Any in-home services provider or employee who performs such acts will be guilty of a Class A misdemeanor (Section 187.050).

Any person placed on the employee disqualification list (EDL) must be notified in writing with thirty days to respond or appeal. Certain persons will be automatically listed on the EDL, such as those who

intentionally or negligently inflict serious physical injury or death to another. No person on the EDL may be employed by anyone receiving the list. Persons listed on the EDL may request removal once every twelve months (Section 187.080).

Prior to hiring an employee, providers must request a criminal background check and must check the EDL. Failure to disclose will result in a Class A misdemeanor. Failure by a provider to investigate will result in civil penalties. Providers may use private investigators to do background checks (Section 187.084). All reports of abuse or neglect will be kept confidential, with specific exceptions (Section 187.087).

The Departments of Health and Senior Services, Social Services, and Mental Health must work cooperatively in the investigation of abuse and neglect, when appropriate (Section 187.102).

The term "financial" is included in the definition of abuse and redefines "medical assistance" as any federal health care program (Section 191.900).

The Attorney General, with approval of the court, is allowed to investigate violations of Sections 191.900 - 191.910 or Sections 187.020 - 187.028 (Section 191.910). The provisions of Section 187.020 are included as non-applicable to certain entities, such as hospitals (Section 198.012).

Written notice of facility noncompliance must be copied to the Attorney General (Section 198.029). Every residential care facility I or II must meet or exceed federal requirements for posting deficiencies

(Section 198.030). Sections 187.020 - 187.050 are included in the requirement for confidentiality of resident records (Section 198.032).

One state licensure inspection is required of every facility every fifteen months. One or more additional inspections will be required if a facility receives or fails to correct certain deficiencies. A second inspection may be done if a facility changes ownership. This does not prohibit the Department from making other inspections, as necessary (Section 198.033). The Attorney General is included in provisions allowing a civil action against a noncomplying facility (Section 198.067).

#### DESCRIPTION (continued)

A requirement is added that skilled or intermediate care nursing assistants must complete training within six months of employment. The Department must approve all training (Section 198.082).

Currently, Section 198.526 deals with facility inspection procedures. New language provides for immediate termination and a Class A misdemeanor for any Division employee who discloses an inspection time to a facility (Section 198.526).

Providers or employees of SNFs or Alzheimer's units are prohibited from sexual contact with residents. Anyone having sexual contact is guilty of a Class B misdemeanor, with subsequent violations being a Class A misdemeanor. Anyone having sexual intercourse is guilty of a Class D felony, with subsequent violations being a Class C felony. This section does not apply to persons married to a resident (Section 565.200).

A new section provides that no legal privilege, with the exception of attorney/client, will excuse a person's failure to report or cooperate with the investigation of abuse or neglect. All Department personnel shall have access to victim's records, unless otherwise prohibited by federal law (Section 660.030).

The Department must consider a facility's compliance history when issuing or renewing a license (Section 660.083).

All Medicaid participation agreements must include a requirement for abuse and neglect training. If Alzheimer's patients are served, then training on the care of such patients shall be required (Section 660.252).

This legislation is not federally mandated would and not duplicate any other program.

#### SOURCES OF INFORMATION

Department of Labor and Industrial Relations  
Missouri House of Representatives  
Department of Elementary and Secondary Education  
Missouri Consolidated Health Care Plan  
Office of the Secretary of State  
Office of State Public Defender  
Office of State Courts Administrator  
Department of Public Safety - Missouri Highway Patrol  
Missouri Health Facilities Review Committee  
Department of Health and Senior Services  
Department of Social Services

**NOT RESPONDING: Office of Attorney General, Department of Mental Health, Office of Prosecution Services, Department of Insurance, Missouri Senate, Missouri Department of Conservation, Department of Economic Development - Professional Registration, Department of Highways and Transportation and Department of Corrections**

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Mickey Wilson, CPA  
Acting Director  
May 8, 2002